

To: Tim Sweeney and Carl Weimer

Fm: Bob Beaumier

Dt: May 10, 2012

Project: Develop a list of issues emerging from the PHMSA ANPRM re: transmission pipeline safety (PHMSA 2011-0023) to build CCPS knowledge and a comment strategy over ensuing months

Goal: CCPS to decide on ranking issues and formulate a comment strategy in ensuing months when rules come out in the NPRM

Additional: CCPS could possibly be prepared to comment on the NPRM for hazardous liquid pipelines to be released soon

Materials: (all materials available in electronic format for posting from Beaumier- call 509 280 9510 or email bobbeaumier@gmail.com)

1. Original PHMSA ANPRM of 8/25/2011, 76 FR 53086-53102¹
2. CCPS and Beaumier comment letters of January 2012
3. WUTC Joe Subsits comments @ January 2012
4. Pipeline Safety Trust comments of January 19, 2012
5. INGAA comments of November 2, 2011
6. AGA preliminary comments of December 2, 2011
7. AGA comments sections A thru O of January 19, 2011 [sic]
8. AGA comments section K of January 19, 2011 [sic]
9. NTSB San Bruno pipeline accident report- summary adopted 8/30/11 and report
10. 49 CFR part 192 (Current to 4/10/12)

ISSUES:

¹ Separate more detailed notes are available on items 1-5

SECTION A- MODIFY HCA DEFINITION?

1. [source PST 4, A.1, PST 6, A.8] **Expand IM?** Should IM be adopted to apply to all natural gas transmission pipeline—not just 6-7% in HCAs?

COMMENT: PST explains at 4 that IM works and recommends it be applied to all miles of gas transmission lines and the rules be strengthened. PST further suggests better defining HCAs and developing new regs for areas outside HCAs. Examples of beefed up security in HCAs might include increased valve spacing, automated valves, or thicker pipe. Areas outside HCAs could have a baseline IM, but with less need for extra safety measures. See also PST for A.8 at 6.

2. [source: PST 4-5, A.2] **Clarify, open up HCA definition process?** Should there be a clearer and open way to identify HCAs, which would be published and include an opportunity for public comment?

COMMENT: Currently HCAs are mapped by methods controlled by operator choice. PST recommends that this should be changed so the public knows whether a particular area has been mapped by the operator as an HCA and understands the method used and attendant risks of one method vs another. The PST further suggests there should be a single set of criteria to define HCAs. PST cites the aerial photo of San Bruno showing the effect of a gas pipeline rupture's unabated 90 minute blowtorch upon the neighborhood and the deficiency of the current "PIR" definition (potential impact radius) being limited to 400 feet for a 30 inch relatively low pressure line. PST notes another example of a 24 inch line 1000psi PIR of 660 feet also being inadequate and urges that if pipeline class locations are used to identify an HCA, the protections should be more realistically extended to all properties at risk, not an artificial cap of a limited distance.

3. [source: Beaumier idea] **local land use impact evaluation?** Should the federal regulatory program include a process to consider local land use impacts, initial and ongoing?

COMMENT: Just limiting the question to expanding HCAs, the change could potentially have quite an impact on local property owners, for example, in beefed up land use controls. There are 3 levels of impact: a) vacant landowners, b) developers, and c) ultimate property owners. Vacant landowners do not sell easements with future developer interests in mind. As density and infrastructure becomes sufficient to support development, developers are anxious to make a sale and individual property owners

may have no idea of the impact of a buried line on or near their property until the problem becomes more dramatic.

4. [source: Beaumier idea] Rebalance risks and burdens from pipelines?

Should there be a fair evaluation and rebalancing of the relative risks, burdens, and costs created by a pipeline on an ongoing basis, and a responsible and accountable distribution of those risks, burdens and costs?

COMMENT: Taxpayers should not have to pay for risks created by operators or utilities. Ratepayers or stockholders of operators or utilities should likewise not have to pay for burdens outside those created by a pipeline or other infrastructure. Pipeline impacts can change over time. What makes sense for a division of risks, burdens and costs for safety on vacant land in a remote area does not apply to dense urban areas. If we are going to restrict buildings or certain kinds of development in the vicinity of pipelines, there should be a compensation issue evaluation.

Local governments who maintain and build rights of way for pipeline operators should be able to recover special benefits from such operators in the form of reasonable franchise fees. Lawsuits arising from pipeline incidents should require full indemnification from operators, including costs of defending. It does no good to say “each party pay for its own negligence” because a plaintiff can always cobble up allegations (with operator assistance, sometimes discreet, sometimes not) of 1% negligence for a right of way manager. This translates into huge defense costs for a local government.

5. [source: Beaumier idea] Shared authority? Should both state and local governments have shared authority to address issues fairly within the orbit of their respective interests, costs and burdens?

COMMENT: The physical and economic impact of a transmission line in the context of a local government can be identified and an appropriate sharing of authority on both a state and local level, can be defined without adversely impacting federal regulatory goals or fairness to operators. No effort has been made to do so.

Local issues could include

- local coordination of local infrastructure impacts
 - fair cost recovery for right of way maintenance
 - protection from lawsuits caused principally by parties other than a local government.
- As a right of way manager, any lawsuit involving local right of way will inevitably trigger some basis to allege local negligence, however small. This means a local government

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must defend a prolonged and costly lawsuit (Beaumier: I have had to deal with 3.) This is not right.

- Impacts on property owners. Beaumier: after an aerial survey, a local transmission company came in and cut down trees 50 years old in one couple's yard. This may be necessary, but there should have been much earlier detection; a way to avoid allowing a mature tree to be destroyed and compensation.
- periodic rebalancing when land use/density changes. The 9th circuit in *Olympic Pipeline* case held that federal safety standards preempt local demands for pressure testing where the subject pipe had failed every pressure test, according to my conversations with Counsel for the City of Seattle. Operators should not be able to insulate themselves from local concerns under a banner of federal safety standards. If pressure testing is not required, periodic independent audits and other safety enhancements for especially vulnerable areas should be required. It is unfair to say that local governments should adopt more land use controls (bear greater risk burdens and impose them on local landowners) while the operator has no obligation to respond to legitimate local safety concerns. The risk of local overreaching seems more remote here than an operator's accountability to local concerns, considering the general relative levels of power and focus of resources to fight the battle.

PHMSA can set overall national standards, but there should be a meaningful process for local participation and shared authority, especially for unique higher risk local problems.

6. [source PST 5-6, A.5] **One set of HCA criteria? Mapping open?** Should the HCA definition criteria and process be simplified? Should there be open mapping to the public?

COMMENT: PST recommends this. I do not see why PHMSA cannot adopt simplified criteria and then have a process for local stakeholder participation where all interested parties can have input.

7. [source PST 6, A.6] **Impact on other infrastructure?** For lines in or near right of way or other infrastructure, should impact on other infrastructure be considered? This could encompass CP interference issues and SCC issues triggered by disturbances from nearby construction or maintenance activities; eg., due to highway or road construction or maintains or other utilities.

COMMENT: I would like to see input from urban planners and other utilities and infrastructure managers about the impact on other infrastructure planning and operations.

8. [source PST 6, A.8] **Local government, public input in HCA definition process?** What opportunity should there be for local government and public input and how should PHMSA handle it?

COMMENT: See above “shared authority” comment. There needs to be local control of local right of way management issues and local land use controls, with a fair balancing of local needs, including operator needs. Local areas need high voltage lines, railroads and gas transmission pipelines as well as hazardous liquid lines. But local areas should not have to pay for risks created by these facilities. I do not have confidence that PHMSA has the expertise or interest or accountability to manage local right of way or land use control issues.

9. **Requirement for operators to submit geospatial information?** [source PST 7, A.9] Should operators be required to submit geospatial information?

COMMENT: The PST recommends this. Local governments have GIS mapping and other informational data bases for land use, infrastructure, and federal, state and local right of way and utility management issues. Pipeline companies use and benefit from this information in their own planning processes, as is proper. It seems obvious that such companies should also be required to input their data for better coordination with others. We already have one-call, but that is location specific. I suggest referring this issue to local planners, who are best equipped for further comment and evaluation.

SECTION B- STRENGTHEN PREVENTATIVE, MITIGATIVE MEASURES?

10. [source: PST 7] **Objective, enforceable criteria for risk management program?** Should there be more objective and enforceable criteria of operator risk management program?

COMMENT: PST explains that the PHMSA “requirements” here are still left to operator discretion and an enforceable program with objective criteria should be established. I believe the industry could be invited to present its draft recommendations. We already have “recommended practices” in many areas. I would support also a cost/benefit evaluation and a triage scoring system. Which measures are most cost effective? Could some measures be phased in to allow planning? I do not support grandfathering as a general barrier to new regulations, but agree it is not fair to change the rules of the game after a company has made a substantial investment in safety based on existing standards. I also would listen to a feasibility/economic burden argument, considering

the miles of pipe involved. But I also suspect that it is possible to develop a reasonable set of rules that prioritizes safety and respects an operator's investment. There is no excuse to allow a substandard system to continue operating. I am suspicious of assertions that time does not degrade pipe, and 1970 was over 40 years ago. It would be interesting to see more information about this issue.

- 11.** [source: PST 7] **Beefed up safety standards?** Should there be more mandatory safety standards?

COMMENT: The PST comments at 7, bottom paragraph, explain that good safety standards are known and available, but that PHMSA's program stops short of making them mandatory, instead leaving safety up to an operator's discretion. Several measures recommended by the NTSB are listed. I do not favor regulatory agencies operating pipeline systems, but here, it seems to me there is basically a lack of any coherent regulatory program. This penalizes good operators and rewards shoddy practices. I accept that my own knowledge here is still limited, but in my experience, things such as preventative maintenance are one of the first items cut when budgets are tight. At this point, my inclination is that improvement in the PHMSA regulatory structure is appropriate. In local traffic engineering, when an accident occurs, an analysis is made whether the accident might have been preventable with additional measures. This is basically, as I understand it, what the NTSB report did. Once a reliable analysis is available, it should be implemented.

SECTION C- MODIFY REPAIR CRITERIA?

- 12.** [source: PST 8, C.2] **More uniform repair schedule, universal reporting requirements?** Should the same repair schedule be required for identified needs, regardless of location? Should reporting schedules be applied to all transmission lines, regardless of location?

COMMENT: PST notes that PHMSA does not require repairs for some locations and does not require safety information to be uniformly reported for all locations. PST recommends all locations should have the same repair schedule and all safety information, even for lines outside HCAs, should be reported.

- 13.** [source: PST 8, C.7] **Assure assessment technology, ILI etc, does the job?** Should there be assurances that inline inspection tools are accomplishing the intended purpose, are accurate, and the results are correctly interpreted?

COMMENT: PST notes an increased reliance on ILI to support IM needs in identifying anomalies, and perhaps someday verifying MAOP and other IM support and that there be good interpretation of data by qualified staff. It seems obvious that this is important.

If PHMSA enforcement resources are an issue, some licensing requirement could be developed along the lines of hydrant inspectors (eg. the City of Spokane trains and licenses private fire hydrant inspectors). Property owners must have their hydrants periodically inspected, but can use qualified private inspectors. We have the same process with vehicle emissions stations, which are licensed by the State of Washington and privately operated, as well as repair dealers, who must show they have proper testing and monitoring equipment to perform things like catalytic converter repairs for vehicles that fail an emissions test.

SECTIONS D, E AND F- COLLECTION, VALIDATION, INTEGRATION OF DATA.

14.[source: PST 8-9] **Collection, validation, integration of pipeline data?** Should operators be required to show valid collection, validation, and integration of data?

COMMENT: PST notes this is a technical area, but supports PHMSA effort to pursue issue. PST notes that this was a factor of concern in the San Bruno event: the operator's records were full of errors leading to a poor risk assessment and IM strategy. It would appear this should be a fundamental requirement for any regulatory program.

15.[source: PST 8, D.4] **More prescriptive requirements for data collection, integration and validation?** Should PHMSA adopt more prescriptive requirements for data collection, integration and validation?

COMMENT: PST notes this was a problem underlying the San Bruno event. Conceptually, I am of a divided mind about prescriptive standards. This could benefit an operator, who then knows it is in compliance or not. It would appear there are good sources from industry recommended practices to develop these. (Eg. NTSB recommendations).

SECTION G. SELECTION AND USE OF ASSESSMENT METHODS.

16.[source: PST 9-10] **Strengthen process to choose assessment method?** Should requirements for selection and use of an assessment method be strengthened?

COMMENT: PST faults PHMSA to some extent for appearing to be in the dark about critical questions surrounding an operator's selection and use of an assessment method. The ANPRM notes 4 methods can be used, including 1) ILI, 2) pressure test, 3) direct assessment or 4) other method the operator demonstrates is equivalent. The problem suggested by the PST is that the issue is so loose that there are no requirements one can see. PST suggests this is a technical issue. The problem thus appears that the issue develops into a private chat between PHMSA and an operator.

Public input is meaningless without some kind of independent audit or translator of the conversation. We have the NTSB report on San Bruno. For meaningful understanding of this issue, there should be some trustworthy and objective third party review of the issue. Also, if, as PST fears, a number of the questions reflect a PHMSA lack or gap of knowledge, a third party audit would appear even more important, as such review should not be dictated by one party, the industry, with everyone else in the dark.

SECTION H- VALVE SPACING; REMOTE, AUTOMATIC VALVES.

- 17.[source: PST 10-11] **Require remote controlled/automatic valves?** Should PHMSA require more remote controlled (RCV) or automatic valves (AV)?

COMMENT: Reading the PST recommendations at 10-11 gives one the impression that there is not much of a regulatory program. The problem appears to rest on a flimsy reed that increasing RCV or AV requirements on a prescriptive basis is not supported by data. It would seem to me that there would be a wealth of best recommended practice material from the industry, if it is not available from PHMSA, or, as PST suggests, it could be derived from an independent analysis. This could be done by PHMSA or some independent party. It seems at this point self evident that allowing a broken gas line to flame out for 1-2 hours and burn down a neighborhood in San Bruno could have been addressed with ACV/RV measures. How can one rely on a 1999 conclusion that the measures are not cost effective?

SECTION I- CORROSION CONTROL.

- 18.[source: PST 11-12] **Post construction surveys for corrosion control (CC and damage check?)** Should there be requirements for post construction surveys to support corrosion control problems via CC protection check and identify coating damage or weaknesses?

COMMENT: This is PST's recommendation. I wonder how burdensome it would be. PST again notes, as with other items, PHMSA has generic "requirements" here but no substance; nothing to give an operator parameters of what it must do. Again, it would appear industry recommended practices of responsible pipeline operators could be used to develop a better mandatory program.

SECTION J- LONGITUDINAL WELD SEAMS; GRANDFATHER PRIVILEGE. HYDROSTATIC TESTING.

- 19.[source: PST 12] **Longitudinal weld pipe; pre-1970 pipe.** Should there be greater assurances of the security of longitudinal weld seam pipe and pre-1970 pipe not pressure tested?

COMMENT: I gather increased risk is associated with pre 1970 pipe which has not been pressure tested or pipe with longitudinal weld seams. It would be interesting to see whether operators with these problems have increased insurance premiums or there is any documentation of increased pipe failure. Where there is a demonstrated increased risk, I believe a grandfather privilege should be eliminated or phased out.

SECTION O- GATHERING LINES.

- 20.**[source: PST 12] **Regulate gathering lines on a par with transmission lines?**
Should gathering lines be regulated on a par with transmission lines?

COMMENT: From looking at the PST comments and the ANPRM itself, it appears we are basically dealing with a threshold level regulatory program development here. This is not bad: it just means let's do it. PHMSA notes that new developments with fracking etc, suggest a significant amount of threshold decisions should be made. Some of the problems, as I have suggested in earlier comments, are simple drafting issues that could be resolved with a basic level of effort. PST notes a heightened level of corrosion risks with gathering systems. The ANPRM comments cite gathering lines from 12-36" diameter with a MAOP of 1480 psig. That sounds like quite a pop.

OVERALL- DATA GATHERING, CLEARER STANDARDS, BASIC DRAFTING

- 21.** [source- overall impressions from PST comments] **More pertinent data, clearer standards, records-keeping?** Should PHMSA gather more pertinent data, develop clearer standards and records-keeping requirements

COMMENT: A good regulatory program should not be developed in a vacuum or ivory tower, but based on good data and field experience. Meaningful data ("meaningful metrics"- PST comment D.4 at 9) is a fundamental foundational requirement. The raw information needs translation into policy implications. The industry should not control this process, although its input is important.

- 22.**[source- overall impressions from PST comments] **Basic drafting?** Should the NPRM include basic drafting proposals of specific regulatory requirements?

COMMENT: A lot of the problems cited by PST suggest that PHMSA does not have a basic regulatory program in place in many areas. It would seem possible to do some basic drafting to propose this. Then there could be more meaningful comments on proposed rules. Hopefully, there will be good input to support this process. A concern is that it should not be based on a one-way input from the industry.